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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (A) No. 3033 of 2007

Petitioners
(Applicants)

1) Ram Surat, aged about 35 years, son of Awadhram, Secretary, Satnami Vikas Parisad, Sarangarh, Distt. Raigarh, CG.

2) Hari Ram, aged about 65 years, son of Duje Ram Satnami, Social Worker, resident of Ambedkar Nagar, Ward No.14, Sarangarh, Dist. Raigarh, CG.

Versus

Respondents
(1 to 4 are plaintiffs)

1) Dhanush Dhari, aged about 36 years, son of Dev Prasad Kahra, occupation – Ex Parsad (Patron) and Social Worker, resident of village Phulhariyapara, Sarangarh, Dist. Raigarh, CG.

2) Santosh Sidar, aged about 35 years, son of Shri Ram Lal Sidar, occupation – Ex Parsad (Patron) and social worker, resident of village Jelpara, Sarangarh, Distt. Raigarh, CG.

3) Mahendra Sidar, aged about 34 years, son of Shri Nanhu Ram Sidar, occupation – Ex Parsad (Patron) and social worker, resident of village Kamlanagar, Sarangarh, Distt. Raigarh, CG.

4) Bharat Lal Thawait, aged about 65 years, son of Shri Uderam Thawait, occupation - Ex President, Nagar Panchayat Sarangarh and social worker, Distt. Raigarh, CG.

5) The President, Nagar Panchayat Sarangarh, Dist. Raigarh, CG.

6) Chief Municipal Officer, Nagar Palika Parisad, Sarangarh, Dist. Raigarh, CG.

(5 to 6 are defendants)

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(Writ Petition under Article 227 of the Constitution of India)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Present:

Shri U.R. Koshaley counsel for the petitioner

ORAL ORDER
(Passed on 11th May, 2007)

By this petition, the petitioners impugn the order dated 15-2-2007 passed by the Civil Judge, Class II, Sarangarh, in Civil Suit No.177-A/2006, whereby an application filed under Order 1, Rule 8 read with Section 151 of the Code of Civil Procedure (for short, "the C.P.C.") was rejected.

2) The indisputable facts, in nutshell, are that a suit was filed by the respondents No. 1 to 4 against the respondents No. 5 and 6 for declaration and permanent injunction seeking permanent injunction against removal of Amar Saheed Chandrasekhar Aazad statue in a public park on the side of Sarangarh – Bilaspur Marg. The petitioners filed an application under Order 1, Rule 8 read with Section 151 of the C.P.C, stating that the petitioners are Satnamis Sanstha of block, Sarangarh and social worker, respectively. They should be permitted to be represented in the matter to pursue the interest of the people of Satnami Samaj, in representative capacity.

3) The Civil Judge, Class II, Sarangarh, after affording an opportunity of hearing to all the parties concerned, rejected the application as under.

> "आवश्यक पक्षकार कौन है एवं इन्हे कब जोड़ा जाना है इस संबंध में वस्तुतः यह देखा जाना चाहिए कि पक्षकार वादी अथवा प्रतिवादी के रूप में पक्षकार होना चाहिए था किन्तु ऐसा नहीं बताया गया है या जबकि उसके बिना उपस्थिति के

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मामले का विवाद निश्चित रूप से तय होना संभव नही है प्रकरण के अवलोकनसे यह दर्शित नहीं होता है कि आवेदकगण की उपस्थिति के बिना न्यायालय वादी एवं प्रतिवादी के मध्य आधारभुत विवाद का निराकरण नहीं किया जा सकता है फिर वादी ने आवेदक गण के विरूध्द कोई अनुतोष नहीं चाहा है ना ही आवेदकगण के विरूध्द कोई अनुतोष नहीं चाहा है ना ही प्रकरण के अवलोकन से यह दर्शित होता है कि बाद में मांगे गये अनुतोष में आवेदकगणों का हित प्रभावित होता है. प्रतिवादी पक्षकार कें रूप में जोड़े जाने हेतु आवेदकगणों की और से कोई वैधानिक पंजीकृत दस्तावेज पेश नहीं किया गया है एवं जिस आशय से आवेदन पेश किया गया है उस का वैध प्रमाण नहीं है जबकि विवादित स्थल पर नगरपंचायत सारंगढ़ का स्वामित्व है। फलस्वरूप आवेदकगणों की और से प्रस्तुत आवेदन अन्तर्गत आदेश–1 नियम–8 सहपठित धारा –151 व्य.प्र.सं. निरस्त किया जाता है"

4) I have heard learned counsel appearing for the petitioners, perused the pleadings and the documents appended thereto. The petitioners have not indicated in their application that whether they want to be impleaded as plaintiffs or defendants and how they are concerned with the suit filed by the respondents No. 1 to 4. The Court below has considered all the aspects and has come to a definite conclusion as stated above.

5) In view of the above, I do not find any infirmity, illegality or jurisdictional error in the impugned judgment/order passed by the Court below.

6) It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the

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order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

7). Applying the above well settled principles of law to the facts of the present case, it does not warrant an interference with the decision of the Court below.

8) Thus, this petition is dismissed. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

Raju